

Senate File 358

AN ACT
CONCERNING TITLE TO REAL ESTATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 558.5, Code 2013, is amended to read as follows:

558.5 Contract for deed — presumption of abandonment.

1. When the record shows that a contract or bond for a deed ~~has been~~ was executed more than ten years earlier, and the ~~record discloses no performance of the same and that more than ten years have elapsed since the contract by its terms was to~~

~~be performed,~~ the contract or bond shall be deemed abandoned by the vendee and ~~of no effect void~~ and the land shall be freed from any lien or defect on account of the contract or bond in any of the following situations:

a. The record does not indicate the contract or bond has been performed and more than ten years have elapsed since the contract or bond by its terms was to be performed.

b. A performance date for the contract or bond is not stated in the contract or bond or any extensions thereof and more than twenty years have elapsed from the date the contract or bond was executed.

2. On and after July 1, 1992, this This section shall apply to a contract or bond described in this section, if the contract or bond is not filed of record but is referred to in another instrument which is filed of record. The contract or bond shall be deemed abandoned by the vendee ten years from the date that the contract or bond is to be performed according to the recorded instrument. However, if the recorded instrument does not refer to a performance date for the contract or bond, the contract or bond shall be deemed abandoned ~~ten~~ twenty years after the date that the instrument containing the reference is recorded.

3. This section shall not apply to a vendee or a vendee's successor in interest if the vendee or the vendee's successor in interest is in possession of the property or has been continuously paying the total amount due, as defined in section 445.1, of the taxes levied against the property for the preceding five years.

Sec. 2. Section 614.21, Code 2013, is amended to read as follows:

614.21 Foreclosure of ancient mortgages.

1. No ~~An~~ action ~~shall be maintained~~ to foreclose or enforce any real estate mortgage, bond for deed, trust deed, or contract for the sale or conveyance of real estate, after twenty years from the date thereof, as shown by the record of such instrument, shall be barred, unless ~~the~~ either of the following:

a. The record of such instrument shows that less than ten years have elapsed since the date of maturity of the indebtedness or part thereof, secured thereby, or since the right of action has accrued thereon, or unless the.

b. The record shows an extension of the maturity of the instrument or of the debt or a part thereof, and that ten years

from the expiration of the time of such extension have not yet expired.

2. The date of maturity, when different than as appears by the record of the instrument, and the date of maturity of any extension of said indebtedness or part thereof, may be shown at any time prior to the expiration of the ~~above~~ periods of limitation specified in subsection 1 by the holder of the debt or the owner or assignee of the instrument filing an extension agreement, duly acknowledged as the original instrument was required to be acknowledged, in the office of the recorder where the instrument is recorded.

3. ~~From and after July 4, 1946, this~~ This section shall also apply to any instrument ~~of the kind~~ described in this section which is not of record but which is described or referred to in any other instrument which is filed of record ~~and the~~. The limitation shall be ten years from the due date of the instrument referred to if disclosed in the record and, if not so disclosed, then within ten years from the date ~~of the record~~ of the instrument containing such reference is recorded.

4. a. A vendee of a real estate contract or bond for deed, the vendor of which is barred by this section from maintaining an action to foreclose or enforce the contract or bond, or a vendee who is entitled to immediate issuance of a deed in fulfillment of contract or bond and who is in physical possession of the property, may serve the vendor with a demand for a deed as provided in the contract. For purposes of this subsection, "vendee" includes a vendee's successor in interest. The notice may be served personally or by publication, on the same conditions, and in the same manner as is provided for the service of original notices, except that when the notice is served by publication an affidavit shall not be required before publication. Service by publication shall be deemed complete on the day of the last publication. Service may be made on a judgment creditor of the deceased vendor or any other person who is, as a matter of record, interested in the estate of a deceased vendor, in the manner provided in section 654.4A, subsections 4 and 5.

b. The demand shall state that if a deed is not provided within forty-five days of service and an action to foreclose or forfeit the contract has not been commenced within such forty-five-day period, the vendee may file an affidavit showing service and compliance with this subsection whereupon the auditor shall correct the county records as provided in section

558.67 to indicate that the rights of the vendor have vested in the vendee.

Sec. 3. Section 656.3, Code 2013, is amended to read as follows:

656.3 Service.

1. Said ~~The~~ notice provided for in section 656.2 may be served personally or by publication, on the same conditions, and in the same manner as is provided for the service of original notices, except that when the notice is served by publication ~~no an~~ an affidavit ~~therefor~~ shall not be required before publication. Service by publication shall be deemed complete on the day of the last publication.

2. The notice provided for in section 656.2 may be served on a judgment creditor of a deceased vendor or on any other person who is, as a matter of record, interested in the estate of a deceased vendor in the manner provided in section 654.4A, subsections 4 and 5.

Sec. 4. Section 656.9, Code 2013, is amended to read as follows:

656.9 Defect in forfeiture proceedings — limitation of actions.

1. An action shall not be commenced after July 1, 1992, which ~~that~~ asserts a claim against real estate previously subject to a forfeiture proceeding, and such claim is based upon a defect in the forfeiture proceeding, in which the proof and record of service of notice of forfeiture required by section 656.5 has been filed for record in the office of the county recorder prior to July 1, 1991.

2. a. An action shall not be commenced by a vendee who is not in possession of the property, or by a party to the forfeiture proceeding who is other than a vendee or vendor, that asserts a claim against real estate previously subject to a forfeiture proceeding, and such claim is based upon a defect in the forfeiture proceeding, in which the proof and record of service of notice of forfeiture required by section 656.6 has been filed of record for more than ten years.

b. A vendee who is not in possession of the property, or a party to the forfeiture proceeding who is other than the vendee or vendor, may commence an action described in paragraph "a" at any time prior to July 1, 2014, if, as of June 30, 2013, more than nine years but ten years or less have elapsed since the proof and record of service of notice of forfeiture required by section 656.6 was filed of record.

c. Subsection 1 and subsection 2, paragraph "b", and this paragraph "c" are repealed July 1, 2014.

PAM JOCHUM
President of the Senate

KRAIG PAULSEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 358, Eighty-fifth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2013

TERRY E. BRANSTAD
Governor